

U.S. Department of Labor

Office of Administrative Law Judges
36 E. 7th St., Suite 2525
Cincinnati, Ohio 45202

(513) 684-3252
(513) 684-6108 (FAX)



Issue Date: 30 May 2006

CASE No. 2006-FLS-1

ELAINE L. CHAO, SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,
Complainant,

v.

DIXON BUILDERS I, LLC.,
Respondent.

APPEARANCES:
Sandra B. Kramer Esq.
Cleveland, OH
For Complainant

Mark Schraffenberger, Esq.
Hamilton, OH
For Respondent

Before: Thomas F. Phalen, Jr.
Administrative Law Judge

DECISION AND ORDER APPROVING SETTLEMENT

The above-captioned case arises under the Fair Labor Standards Act, 29 U.S.C. § 201; and the Regulations found at 29 C.F.R. Part 580.18. This matter was before me on Respondent's request for hearing and objection to findings issued on behalf of the Secretary of Labor by the Administrator of the Department of Labor Occupational Safety and Health Administration ("OSHA") after investigation of the complaint. 29 C.F.R. Parts 578 and 580.

Through an order dated February 23, 2006, a formal hearing was scheduled for May 24, 2006. On May 18, 2006, the parties notified the undersigned that they had reached a settlement, and submitted the Stipulation of the parties. The formal hearing is now being cancelled. The parties requested approval of the settlement agreement.

The undersigned received the original executed settlement agreement between Complainant and Respondent, and a copy of the agreement is attached hereto and made a part of this order.

After reviewing the settlement agreement, the undersigned finds the agreement to be fair and reasonable. 29 C.F.R. § 18.9(d). Therefore,

ORDER

IT IS ORDERED that, absent a request for review pursuant to 29 C.F.R. § 24.8:

- (1) Respondent hereby withdraws its exception to the assessment of civil money penalties, agrees to accept the penalties as final and binding, and will tender payment of \$3,750.00 to Plaintiff on or before May 22, 2006;
- (2) Any order entered in accordance with these consent findings shall have the same force and effect as an order made after full hearing;
- (3) The entire record upon which any final order may be based shall consist of the notice of penalty, as modified herein, and these consent findings;
- (4) The signing of these Consent Findings waives any claim either party has to costs and/or attorney fees; and
- (5) All further procedural rights provided by 29 C.F.R. Part 580 and any rights to contest the validity of these consent findings or any order issued pursuant thereto are hereby waived.

A

THOMAS F. PHALEN, JR.
ADMINISTRATIVE LAW JUDGE

NOTICE OF APPEAL RIGHTS: If you are dissatisfied with the administrative law judge's decision, you may file an appeal that is received by the Administrative Review Board ("Board"). To be timely, your appeal must be filed with the Board within thirty (30) days of the date of issuance of the administrative law judge's decision. *See* 29 C.F.R. § 580.13. The address for the Board is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. *See* Secretary's Order 1-2002, 67 Fed. Reg. 64272 (2002). Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file the appeal with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001. *See* 29 C.F.R. § 580.13.

If no appeal is timely filed, then the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 580.12(e).

